



06.01-04

1731 Gfw

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application: Judith L. Erb

Serial No.: 09/833,998

Group Art Unit: 1731

Filed: 04/12/01

Examiner: HOFFMAN, John M.

For: METHOD AND APPARATUS FOR MEASUREMENT  
OF BINDING BETWEEN A PROTEIN AND A NUCLEOTIDE

Attorney Docket No: 3060.00018

### **RESPONSE**

Commissioner for Patents  
Mail Stop Non-Fee Amendment  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

This is in response to the Office Action dated October 1, 2003, Paper Number 30926.

Restriction to one of the following Groups was required under 35 USC §121:

- I. Claims 62-63, drawn to a method for manufacturing fibers, classified in class 65, subclass 385.
- II. Claim 64, drawn to means for protecting surfaces glass, classified in class 106, subclass 287.270.

Applicants provisionally elect Group I, claims 62-63 for prosecution purposes, with traverse. Applicants hereby conditionally withdraws claim 64 from prosecution, without prejudice, and request reconsideration of the restriction requirement.

Applicants traverse the restriction requirement based on the following grounds. It is respectfully submitted that the restriction requirement practice was established to promote efficiency of prosecution in the Patent Office. Both groups of claims relate to methods of preparing a surface. Hence, it is

respectfully submitted that restriction should not be required and that Applicants have traversed the restriction requirement. However, as stated above, Applicants have elected the claims of Group I and provisionally withdraw claim 64, without prejudice, pending reconsideration of the restriction requirement.

The Commissioner is authorized to charge any fee or credit any overpayment in connection with this communication to our Deposit Account No. 11-1449.

The application is now in condition for allowance, which allowance is respectfully solicited.

Respectfully submitted,

KOHN & ASSOCIATES, PLLC



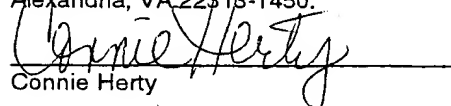
Amy E. Binaldo, Reg. No. 45,791  
30500 Northwestern Highway  
Suite 410  
Farmington Hills, Michigan 48334  
(248) 539-5050

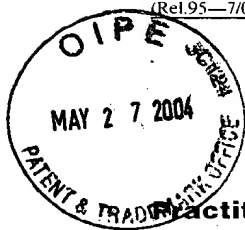
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Connie Herty

Practitioner's Docket No. 3060.00018**PATENT****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: Judith L. Erb, et al.

Application No.: 09/833,998 Group No.: 1731

Filed: 04/12/01

Examiner: HOFFMANN, John M.

For: Method and Apparatus for Measurement of Binding  
Between A Protein and A Nucleotide

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

**INFORMATION FOR WITHDRAWAL OF ABANDONMENT—PTO HAS NO  
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NOTE: 37 C.F.R. § 1.8(b) states:

(b) In the event that correspondence is considered timely filed by being mailed . . . in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

- (1) Informs the Office of the previous mailing . . . of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
- (2) Supplies an additional copy of the previously mailed . . . correspondence and certificate; and
- (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing. . . .

(c) The Office may require additional evidence to determine if the correspondence was timely filed.

**REQUEST**

1. Applicant requests that the abandonment in this case be withdrawn.

**CERTIFICATE OF MAILING/TRANSMISSION (37 C.F.R. § 1.8(a))**

I hereby certify that this correspondence is, on the date shown below, being:

**MAILING**

☐ deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to the Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450

**FACSIMILE**

☒ transmitted by facsimile to the Patent and Trademark Office, (703) 872-9306

Signature

Connie Herty

(type or print name of person certifying)

Date: 5/23/04

(Information for Withdrawal of Abandonment—PTO Has No Evidence That Mailed Correspondence Received

[9-35]—page 1 of 3)

### PROMPTNESS OF THIS SUBMISSION

This information is being submitted promptly after applicant has learned of the abandonment on the basis of:

- ☒ the Notice of Abandonment mailed by the PTO on 5/4/04.
- ☐ applicant's own procedures in monitoring the progress of this case.

### SUBMISSION

2. Submitted herewith is:

*(check and complete each appropriate item below)*

- ☒ A copy of the page of the response mailed on 10/17/03, showing a Certificate of Mailing executed on 10/17/03.
- ☐ A copy of the post card identifying the papers filed and showing the U.S. PTO receipt stamp dated \_\_\_\_\_.

NOTE: "A post card receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." § 504, M.P.E.P., 7th Edition.

- ☒ A copy of the complete response previously filed.
- ☐ A copy of the cancelled check(s) referring to the response identified above.
- ☐ A copy of the attorney's Deposit Account Statement, in which the item corresponding to the response referred to above is noted.

### STATEMENT

3. Attached hereto is a statement attesting to the timely transmission of the correspondence referred to above based on:

- ☐ personal knowledge
- ☒ a showing believed to be satisfactory to the Commissioner

4. Please proceed with further examination of this application on the basis of:

- ☐ The original papers filed, which have now reached the appropriate area of the PTO.

### AND/OR

- ☒ The attached copy of the papers originally filed.

### REQUEST FOR WITHDRAWAL OF ABANDONMENT

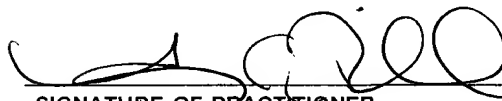
5. Acknowledgement of the active status of this application is respectfully requested.

(Information for Withdrawal of Abandonment—PTO Has No Evidence That Mailed Correspondence Received [9-35]—page 2 of 3)

Reg. No.: 45,791

Tel. No.: ( 248 ) 539-5050

Customer No.:



SIGNATURE OF PRACTITIONER

Amy E. Rinaldo

*(type or print name of practitioner)*

30500 Northwestern Highway, Suite 410

P.O. Address

Farmington Hills, Michigan 48334



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Re application of: Judith L. Erb, et al.

Serial No. 09/833,998

Group Art Unit: 1731

Filed: 04/12/01

Examiner: HOFFMANN, John M.

For: METHOD AND APPARATUS FOR MEASUREMENT  
OF BINDING BETWEEN A PROTEIN AND A NUCLEOTIDE

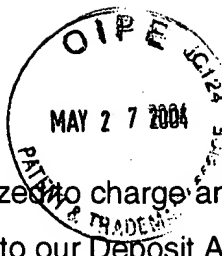
Attorney Docket No: 3060.00018

**STATEMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

This statement is in response to an Office Communication dated May 4, 2004, enclosing a Notice of Abandonment for failure to timely reply to the Office Action dated October 1, 2003. Please be advised that a response was timely filed October 17, 2003, by Express Mail. A return postcard was never received back from the USPTO, however, the attached Express Mail Label indicates the date of filing the response. Accordingly, an Information for Withdrawal of Abandonment is attached hereto for filing.



The Commissioner is authorized to charge any fee or credit any overpayment in connection with this communication to our Deposit Account No. 11-1449.

Respectfully submitted,

KOHN & ASSOCIATES, PLLC

Amy E. Rinaldo, Reg. No. 45,791  
30500 Northwestern Highway  
Suite 410  
Farmington Hills, Michigan 48334  
(248) 539-5050

Dated: May 27, 2004

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\_\_\_\_\_  
Connie Herty



## RECEIVED IN THE UNITED STATES PATENT &amp; TRADEMARK OFFICE

Date 10/17/03 Attorney AER/ch Docket No. 3060.00018  
USSN 09/833,998 Applicant Judith L. Erb

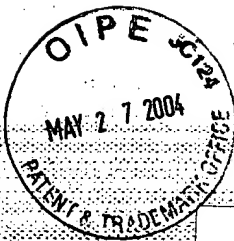
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Date In Mo. <b>10</b> Day <b>17</b> Year <b>03</b>	<input checked="" type="checkbox"/> 12 Noon <input type="checkbox"/> 3 PM	Postage \$ <b>13.65</b>
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